

Borough of Mountain Lakes
Housing Element and Fair Share Plan (HEFSP) Committee
November 2, 2015 - 6:00 PM
Borough Hall

Attendance: Blair Bravo, Committee Coordinator; Jim Baily, Planning Board Chair; Stephen Shaw and Sandy Batty; Community Volunteers

1) *Welcome and Approval of Minutes*

Blair thanked everybody for their continued participation and gave an overview of the agenda (attached)

The minutes of the 6/18/15 meeting with redlined edits were approved. Batty abstained. The minutes of the 10/01/15 meeting were approved as submitted.

Discussion took place regarding the posting of the minutes on the Borough website. It was agreed that Stephen would submit the approved minutes to the Clerk with a recommendation that they be published on the website. Ultimately the decision to publish is up to the administration and Council.

Before moving on to the next agenda item, Jim outlined the background leading up to the formation of the HEFSP committee. He explained the following:

- As Chair of the Planning Board he worked on the current Master Plan
- Since COAH was in limbo, there was no Housing Element and Fair Share Plan
- He told the Council and Planning Board he was committed to work on a HEFSP once there was direction from the State or the Courts
- After the March State Supreme Court ruling Jim went to the Borough Council and asked for direction
- Council informed him that the Planner, Paul Phillips would work on HEFSP
- Jim followed up with the Borough Council three months later and suggested the formation of a committee with some members who had worked on prior HEFSP

A discussion followed as to our official “charge” and “mission”. Blair asked if there was a letter from Council explaining what they were expecting from the HEFSP Committee. There is none. Stephen stated that when he prepared the minutes he wasn’t even sure what to call the Committee so he came up with HEFSP. Jim felt that there should be representation from the Council or a Council Liaison. Sandy felt that there should be wider representation from the community. Stephen felt that the Committee membership should be a constant. The group discussed what we thought our mission was and decided on the following:

- Assist the Borough Planner in the development of our 3rd round Housing Element and Fair Share Plan
- Identify and prioritize realistic opportunities for affordable housing
- Suggest possible funding sources
- Act as a vehicle to share information on the issue and keep Council informed of our progress

The group also felt that the HEFSP Committee membership should be expanded to include at least one Borough Council member and another Planning Board member. A timeline was also discussed and we felt our work should be completed by the end of

January. It was agreed that Stephen would draft a memo to circulate to the group and once the memo was approved it would be sent to the Clerk.

2) *Updates on affordable housing activities here and in New Jersey*

Blair explained that many towns have filed for a Declaratory Judgement and are looking for an extension of time from the courts. The ML League of Women Voters held a panel discussion that was well attended. The NJ League of Municipalities is holding seminars at their convention and has a great deal of information on line.

3) *Impact environmental issues have on affordable housing placement and obligations*

Blair explained that environmental constraints have to be accounted for when identifying sites.

4) *Brainstorming on potential housing opportunities. Where, when and how it will be built*

In preparation for this meeting Blair circulated two documents (attached) titled "Preparing a Housing Element and Fair Share Plan" and "What is an Accessory Apartment". The group found the papers very informative and discussed sites as well as methods for developing affordable housing. Some methods discussed included:

- Mix use
- Adaptive reuse
- Multi family
- Redevelopment
- Accessory apartments
- Group homes
- Rental rehab
- Age restricted

Locations were discussed including areas along RT 46 Corridor, other commercial areas and some specific properties

Sandy said we need to focus on what is realistic and best for overall planning in the Borough. Blair emphasized that a source of funding is needed and explained how a partnership with a profit and nonprofit can work. Stephen explained how a municipality can incentivize a land owner to develop based on a redevelopment zone and or Payment In Lieu Of Taxes (PILOT) program.

The group discussed any impact on rateables/taxes and if the Borough Economic Development Committee (EDC) was available for input on the subject.

5) *Next Meeting*

Monday November 16, 2015 at 7:30 in Borough Hall without Paul Phillips

Tuesday December 8, 2015 at 6:00 in Borough Hall with Paul Phillips and hopefully we will have numbers to work with.

Meeting adjourned at 8:30 PM

Submitted by: Stephen Shaw

Agenda

Mtn. Lakes Housing Committee Meeting

November 2, 2015

6:00 p.m. – 8:30 p.m.

Invited: Rich Sheola, Borough Manager; Jim Bailey, Planning Board Chair; Sandy Batty and Stephen Shaw, Community Volunteers, Blair Schleicher Bravo; Committee Coordinator.

1. Welcome
2. Updates on affordable housing activities here and in NJ
3. What impact does environmental issues have on affordable housing placement as well as obligation
4. Brainstorm discussion on potential housing opportunities for where and when AH should be built in Mtn. Lakes as well as who will build it***:
 - Consider properties and sites most appropriate for construction of AH and structures most appropriate for conversion and rehabilitation
 - Consider potential zoning changes to accommodate obligation
 - Consider AH developers: for profit/non profit

For all options above, 3 ingredients are essential:

- a. A suitable site or property with permissive zoning or land use approvals***
- b. A developer with capacity***
- c. Adequate financial resources***

5. Discuss ways Mtn. Lakes would fund affordable housing obligation

Next Steps

Meeting dates: 12/8/15 6:00 p.m. Paul Philips will be in attendance

Next Meeting

*** In preparation for Monday's meeting, please read attached document on Municipal Options and Key Principles, Rules, and Incentives

Housing Element and Fair Share Housing Plan Requirements

Pursuant to both the Fair Housing Act and the Municipal Land Use Law (MLUL), municipalities in New Jersey are required to include a housing element in their master plans. The principal purpose of the housing element is to provide for methods of achieving the goal of access to affordable housing to meet the municipality's low and moderate income housing needs.

The statutorily required contents of the housing element are:

- a. An inventory of the municipality's housing stock by age, condition, purchase or rental value, occupancy characteristics, and type, including the number of units affordable to low and moderate income households and substandard housing capable of being rehabilitated;
- b. A projection of the municipality's housing stock, including the probable future construction of low and moderate income housing, for the ten years, taking into account, but not necessarily limited to, construction permits issued, approvals of applications for development and probable residential development of lands;
- c. An analysis of the municipality's demographic characteristics, including but not necessarily limited to, household size, income level and age;
- d. An analysis of the existing and probable future employment characteristics of the municipality;
- e. A determination of the municipality's present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs, including its fair share for low and moderate income housing; and
- f. A consideration of the lands that are most appropriate for construction of low and moderate income housing and of the existing structures most appropriate for conversion to, or rehabilitation for low and moderate income housing, including a consideration of lands of developers who have expressed a commitment to provide low and moderate income housing.

PREPARING A HOUSING ELEMENT and Fair Share Plan

Housing planning has been an integral, mandatory part of local land use planning in New Jersey since enactment of the Fair Housing Act, as municipalities must, under the Municipal Land Use Law as amended by the Act in 1985, adopt a housing plan element of the master plan in order to exercise the power to zone and regulate land use. As defined by COAH, a “fair share plan” is the document in which the municipality details specifically the affirmative actions it will take to create a “realistic opportunity” to satisfy its fair share housing obligations, including proposed or adopted ordinances and resolutions. The housing plan element is prepared and adopted by the municipal planning board. Under COAH rules, the municipal governing body must endorse the fair share plan. In practice, typically a single document, a housing element and fair share plan, is prepared and adopted by the planning board and endorsed by the governing body.

The Fair Housing Act specifies the essential elements of the municipal housing plan, which must be designed to “achieve the goal of access to affordable housing to meet present and prospective housing needs” and pay “particular attention to low and moderate income housing”:

- Inventory of the municipality’s housing stock, including affordable housing and substandard housing capable of being rehabilitated;
- Projection of the municipality’s housing stock, including probable future low and moderate income housing;
- Analysis of the municipality’s demographic characteristics;
- Analysis of the municipality’s employment characteristics;
- Determination of the municipality’s present and prospective fair share for low and moderate income housing and its capacity to accommodate its present and prospective housing needs and;
- Consideration of the lands most appropriate for construction of low and moderate income housing and structures most appropriate for conversion and

rehabilitation for low and moderate income housing, including land proposed by developers committed to providing low and moderate income housing.

The housing plan must be prepared by a New Jersey licensed professional planner, who conducts the required analyses and surveys, in consultation and cooperation with other municipal staff, professionals (e.g., attorney and engineer), consultants, planning board members, governing body members, developers, advocates, property owners, and the public. At a minimum, the planning board must give ten days published public notice of the required public hearing on adoption, revision, or amendment of the housing plan element, provide notice to adjoining municipalities, and make available the proposed plan for public review. At a minimum, a governing body must give ten days published public notice of the required public hearing, and direct notice to affected property owners, of any proposed zoning ordinance amendment to implement the housing plan element. In practice, the housing element and fair share plan is typically prepared as a single, integrated document, discussed informally with and by the planning board and governing body, and made available to the public in draft form and adopted form at the municipal clerk’s office, and often posted on the municipal website.

A typical plan details sites and projects slated to produce affordable housing, provides maps locating sites and portraying any site constraints, includes draft and adopted zoning amendments, contains agreements with developers and evidence of site plan and use variance approvals, documents claimed credits for completed affordable housing, and provides municipal revenue projections, as well as funding and bonding commitments, to support affordable housing activities.

Municipalities may be expected to build their 2015 housing elements and fair share plans on the base of previously adopted plans, most dating from 2008. That said, in many cases municipalities will need to work with non-profits and others to find additional opportunities and update their plans.

OPTIONS FOR MUNICIPALITIES

to Satisfy their Affordable Housing Obligations

Municipalities have several well-established options to consider and adopt in their housing plans for satisfying their constitutional obligations. At the outset it is critical to recall the Supreme Court's applicable standards established in *Mount Laurel II* in 1983 for determining compliance. First, a "realistic opportunity" must be provided for satisfying the municipality's fair share obligation, with "realistic" depending "... on whether there

is a likelihood-to the extent economic conditions allow- that the lower income housing will actually be constructed." Second, municipal compliance must be "... determined solely on an objective basis: if the municipality has *in fact* provided a realistic opportunity for the construction of its fair share ..., it has met the *Mount Laurel* obligation ..., if it has not, then it has failed to satisfy it."

For all options, three ingredients are essential: (a) a suitable site or property with permissive zoning or land use approvals, (b) a developer with capacity, and (c) adequate financial resources.

AGE-RESTRICTED HOUSING *Including Assisted Living*

Project Name: The Village at St. Peter's Senior Housing (VASP)

Project Address: Pleasantville, New Jersey

Developer: Diocesan Housing Services Corporation of the Diocese of Camden (NJ), Inc

Year Completed: 2012

Total Units: 74

Type & Tenure: Rental Apartments with an affordable housing set-aside targeted to seniors, 62 years and older, with incomes at or below 50 percent of the Area Median Income (AMI).

Funding Sources: Combined the HUD-202 program with 4 percent tax credits

Description: This senior housing replaced a vacant convent and stimulated economic development of surrounding businesses. The project won a 2012 Governor's Housing Conference award for Housing and Economic development because it led to new businesses that continue to thrive today. The building's exterior is complementary in style to the church's Spanish Colonial architecture, retaining the historic fabric of the neighborhood.



"Villages at St. Peter's is a shining example of a true public-private partnership, representing many years of coordination between local, state, and federal governments and private industry leaders to create affordable homes for our seniors," said DCA Acting Commissioner Richard E. Constable, III, who is Chair of the HMFA. "Not only are the rents affordable, but the sponsorship by Diocesan Housing Services Corporation and Catholic Charities ensures that the seniors residing here will have access to transportation services, meal programs and medical/health programs on-site at no cost."

1. Present Need – Rehabilitation: The present need component of the fair share obligation signifies that low and moderate income households are living in substandard and overcrowded housing in the municipality. To satisfy this need, most municipalities establish, fund, and administer a local housing rehabilitation program, using municipal staff, consultants, or a county community development housing improvement program. COAH rules importantly require housing rehabilitation to be available to rental properties that serve low and moderate income households. COAH rules also provide that a municipality's present need can alternatively be satisfied through new construction of affordable housing.

2. 100% Affordable (family or senior): The most popular option, and the source of more than one-half of the built affordable units counted by COAH, is 100% affordable housing developments, developed by the private and nonprofit sectors, often in partnership with municipalities, and typically relying for substantial equity on federal Low Income Housing Tax Credits allocated on a competitive basis by the New Jersey Housing and Mortgage Finance Agency and other subsidies. Mostly developed as rental housing, municipalities often support 100% affordable developments by donating surplus land or buildings ripe for conversion, as well as by providing negotiated public subsidies from municipal housing trust funds, bonding, and tax abatements.

This option is popular from the municipal perspective for at least two reasons. First, COAH rules provide in some circumstances for a rental bonus, up to a cap, so that certain rental family affordable units count as two credits towards the municipal housing obligation. Second, 100% affordable housing makes unnecessary the market rate units that underwrite inclusionary development, enabling municipalities to minimize population changes, including families with school-age children, and increases in property taxes to support increased municipal services and costs.

3. Inclusionary Development and Zoning: Mixed income private sector development, including housing affordable to low and moderate income households, is the second most significant source of built affordable housing. Inclusionary development typically involves a set-aside of 20% of the total units as affordable housing in homeownership projects and 15% of the total units in rental projects; these percentages are the maximum presumptive set-asides prescribed by COAH Second Round rules. Sale or rental of the market-rate units internally subsidizes the cost of income-restricted affordable units. Set-asides can be lower or higher, depending on the permitted densities, housing types, and negotiations between a municipality and a developer. The affordable units in these mixed income developments, whether townhouses, apartments, stacked flats, or small lot houses, should be indistinguishable from the exterior and scattered among the market-rate units.

Inclusionary development may be implemented through zoning by establishment of a new zoning district that requires or allows inclusionary development, depending on the municipal objective, or by an overlay zone with inclusionary provisions. Inclusionary development may also be instituted as a compliance mechanism as part of a municipally-adopted redevelopment or rehabilitation plan, which acts as the zoning for a designated redevelopment area. Inclusionary development need not be new construction on a greenfield site; obsolete or underutilized nonresidential structures can be converted to residential use with an inclusionary component. Inclusionary zoning is a prime example of incentive-based affordable housing development, as the private sector will respond to economically feasible densities and set-asides on suitable, appropriately located sites.

4. Supportive and Special Needs Housing: Different groups of people with low incomes have special needs for a decent, supportive place to live, including: people with mental illness and developmental disabilities, people with adult onset physical disabilities, disabled veterans, victims of domestic violence, youth aging out

HOMES FOR FAMILIES AND PEOPLE WITH SPECIAL NEEDS *Integrated Together*

Project Address: 700 Heritage Court, Pennington

Developer: Project Freedom

Year Completed: 2013

Total Units: 72 units will be affordable to someone making less than 60 % of the area median income, and the units will be marketed to persons who are disabled, as well as to the general population

Type & Tenure: Rental apartments

Affordable Housing Set-Aside: 52 units will be affordable to someone making less than 60 % of the area median income, and the units will be marketed to persons who are disabled, as well as to the general population. 10 units to individuals who are developmentally disabled, in cooperation with the Division of Developmental Disabilities and 10 units to those individuals who come from the Division of Mental Health.

Funding Sources: HMFA has committed a first mortgage of \$4.7 million to the project, as well as \$1 million in financing from the Special Needs Housing Trust Fund. The project will also receive \$9.3 million in equity generated by the sale of federal Low Income Housing Tax Credits. Other project funding includes \$600,000 in Mercer County HOME funds and \$1.4 million from the Federal Home Loan Bank. Additional financial assistance has also been provided through the Hopewell Township Affordable Housing Trust Fund and a loan from TD Bank.

Description: The goal here is to create housing which can totally integrate the special needs individual and his family into the mainstream of American living.



of foster care, and the homeless in need of permanent affordable housing. In COAH Prior Round rules and subsequent practice, COAH recognized these specialized housing types and others, which it formerly called “alternative living arrangements,” as meeting fair share obligations. About 12% of the built affordable units counted by COAH are supportive and special needs housing. Municipalities seeking to welcome such state-licensed housing in their plans may provide land and/or funding, acquire houses suitable for conversion to group homes, amend zoning to make such housing permitted uses, support use variances, negotiate a PILOT (payment in lieu of taxes), and take other affirmative steps to create this type of affordable housing that is developed mostly, but not entirely by the nonprofit sector. Two incentives for municipalities in COAH rules have encouraged this housing type: first, the housing is considered to be rentals that may qualify for rental bonuses and second, the unit of credit against fair share obligations is the bedroom.

5. Assisted Living Residences: An assisted living residence is a specialized housing type licensed by the New Jersey Department of Health and Senior Services that provides apartment style living and congregate dining and other services, typically for older persons. Assisted living residences can be developed under an inclusionary model in which a percentage of the units are set-aside for income-eligible low and moderate households. State law on licensing assisted living residences developed since 2001 requires the reservation of 10% of the beds for Medicaid-eligible persons and provides that any beds so reserved shall be recognized as fulfilling low and moderate income housing requirements in municipal ordinances. Municipalities can provide for in their plans and encourage development of inclusionary assisted living residences by adopting permissive zoning and taking other affirmative steps.

6. Accessory Apartments: An accessory apartment is a self-contained, independent housing unit created either

within an existing house, through conversion of an existing structure attached to a house, or by an addition to the house. Municipalities can encourage and make possible the creation of affordable accessory apartments by first amending zoning to permit a second dwelling unit on an otherwise single family lot and by providing financial assistance to homeowners to undertake the necessary construction or renovations. This is not, however, a very common, productive compliance mechanism, as COAH has counted only 111 affordable accessory apartments created.

7. *Redevelopment:* Redevelopment under New Jersey's Local Redevelopment and Housing Law is not an affordable housing type, but rather an increasing popular mechanism for rebuilding communities by transforming distressed areas, a process that encourages available sites that may be developed to include affordable housing. Municipalities may designate redevelopment or rehabilitation areas that meet statutory criteria, then prepare and adopt redevelopment or rehabilitation plans, either with or without the possibility of condemnation to facilitate site assembly by a municipally designated redeveloper.

8. *Market to Affordable Program:* COAH rules authorize credits against fair share obligations, up to a cap, for municipal programs that purchase existing market-rate housing and sell or rent the housing, once rehabilitated, if necessary, to low and moderate income households. Municipalities subsidize the difference between the cost to acquire and renovate the market-rate unit and the restricted price or rent of the housing for income eligible households.

9. *Expiring Controls:* COAH Third Round rules also authorize credits against fair share obligations for extensions of the term of affordability controls on existing affordability housing built after April 1, 1980, once rehabilitated, if necessary. Affordable housing developed under COAH's First Round rules were generally subject to 20-year minimum terms of affordability controls, later extended to a 30 year maximum in COAH's Second Round rules and in 2004

changed to a minimum of 30 years in the Housing Affordability Controls rules (UHAC) adopted by the New Jersey Housing and Mortgage Finance Agency. This means that controls on affordable units built in the mid-1980s generally began to expire in the mid 2000s, while 30-year controls generally began to expire in the 2010s. Municipalities may extend the term of controls through agreement with the housing owner or by other means and options authorized by COAH rules, local ordinances, and the deed restrictions on affordable ownership and rental units. While this mechanism does not increase the supply of affordable housing, it does ensure that affordable units continue to be available only to income-eligible households.

HOMEOWNERSHIP *New Construction*



Project Name: Summit Interfaith & Community Build

Project Address: 39 Morris Ave. Summit

Developer: Collaborative effort between the City of Summit, the Summit Affordable Housing Corporation and Morris Habitat for Humanity Habitat of Morris County

Year Completed: Winter 2011

Total Units: 6

Type & Tenure: Homeowner Condominiums

Affordable Housing Set Aside: 6 Families

Funding Sources: The city contributed \$530,000 from their Affordable Housing Trust Fund for property acquisition. The remaining \$865,400 was raised through the collaborative efforts of the Summit Affordable Housing Corporation, Morris Habitat and faith-based congregations from in and around the Summit area through grants, donations of materials and services, and various fund-raising event.

KEY PRINCIPLES, RULES, AND INCENTIVES in Developing Municipal Housing Share Plans

In developing a new, amended, revised, or updated 2015 municipal housing element and fair share plan, all participants in the plan preparation, adoption, and review process must be mindful of certain well-established principles and rules. While in the absence of a functioning COAH there is no single valid set of Third Round rules, the Fair Housing Act, including its 2008 amendments, provides several clear statutory requirements, while COAH Second Round (i.e., Prior Round) rules (N.J.A.C. 5:93) and certain Third Round rules that have not been invalidated (N.J.A.C. 5:94 and N.J.A.C. 5:97) also establish important, applicable

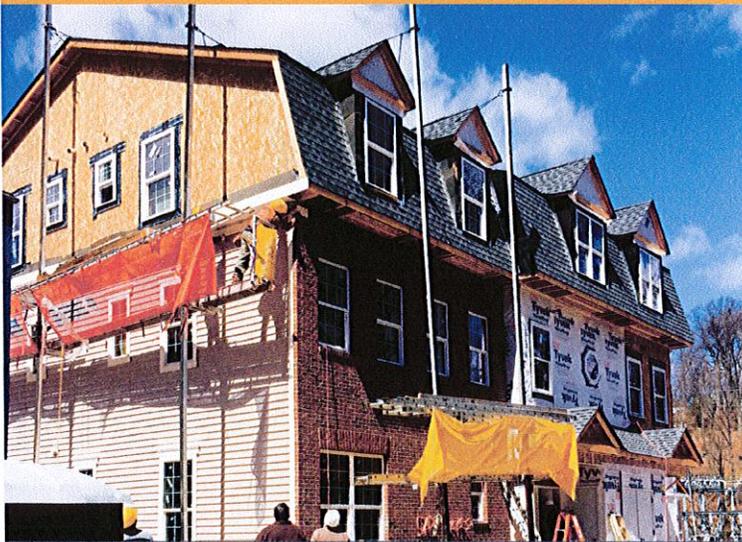
standards. These rules also provide incentives to municipalities that influence municipal choices of compliance mechanisms. A non-exhaustive list of these principles, rules, and incentives follows. Ultimately, which standards trial courts will apply in their reviews of Third Round compliance plans will emerge in declaratory judgment and exclusionary zoning proceedings.

1. “Realistic opportunity”: It bears repeating that the bedrock principle for determining whether a municipal housing plan satisfies a municipality’s constitutional housing obligations is whether a “realistic opportunity” has been created for satisfying the obligations.

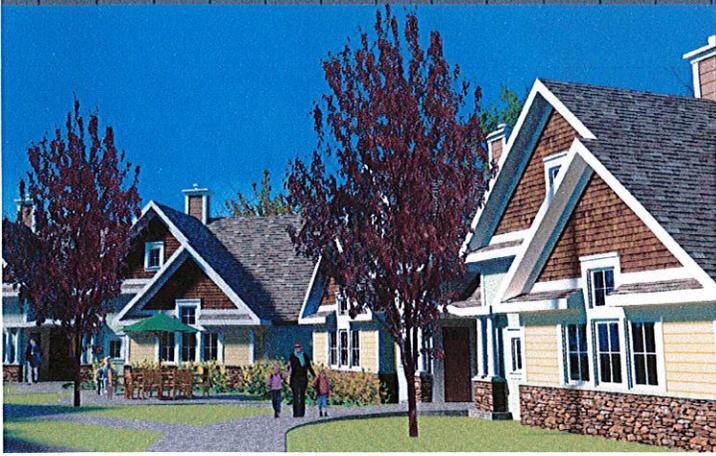
2. COAH Second Round Rules and COAH Handbook: As the courts have invalidated significant parts of COAH’s 2004 and 2008 iterations of Third Round rules, the most comprehensive, valid set of standards to guide preparation and review of 2015 municipal housing plans are the COAH Second Round Rules, published in the New Jersey Administrative Code at N.J.A.C. 5:93. To introduce the COAH process to local officials, guide planners and others through its rules, assist the public in understanding how a municipal housing plan is developed, and provide sample ordinances and resolutions, COAH published a Handbook from time-to-time. The 2001 edition of the COAH Handbook, available from the Network as resource to this guide, is a helpful companion to the Second Round rules. Due to amendments to the Fair Housing Act and changes in housing planning practice, the COAH Second Round rules should be used cautiously. For example, such changes include: elimination of “regional contribution agreements,” requirements that certain affordable units be accessible and adaptable, and use of the term “supportive and special needs housing” (instead of the out-of-date “alternative living arrangements”).

3. Site Suitability: A critical component of the “realistic opportunity” evaluation is whether the sites proposed for affordable housing development are suitable. In *Mount Laurel II*, the Supreme Court established general site suitability standards, although in the context of builder’s remedy litigation, that are still valid decades later: “... the proposed project ... [must be] ... located and

BROWNFIELD INCLUSIONARY TRANSIT ORIENTED RENTAL REDEVELOPMENT



Estling Village is a 100-unit privately developed rental inclusionary development in Denville, Morris County, at 30 Estling Lake Road, in sight and walking distance of NJ Transit’s Denville train station. Developed by JMF Properties, LLC, the brownfield site was formerly a manufacturing building and in arrears in its property taxes. Currently (2015) under construction after environmental remediation, the townhouse style apartments have a 15% set-aside and will provide 15 affordable rental units.



A VERY SPECIAL HOMES DEVELOPMENT in Tenafly

Project Name: A Very Special Homes Development in Tenafly

Project Address: 311 Tenafly Road, Tenafly

Developer: Bergen County United Way /Madeline

Year Completed: 2016

Total Units: 6

Type & Tenure: Rental

Affordable Housing Set-Aside: 10 individuals with developmental disabilities.

Funding Sources: Bergen County's United Way, Borough of Tenafly, Housing mortgage Finance Agency, County of Bergen, Division of Community Development

The development of this project has received the support and praise of Tenafly, including the mayor. In speaking to the *Bergen Record*, Mayor Peter Rustin said, "We have a lot of high functioning people with disabilities who don't have a place to live, a lot of people locally that have that need. This would go a long way to help a number of these people out."

designed in accordance with sound zoning and planning concepts, including its environmental impact" and "It is only if the proposed development ... is contrary to sound planning principles, or represents a substantial environmental hazard, that it should be denied." COAH rules have articulated these principles with more precision, with a dozen site suitability criteria such as access to appropriate streets, compliance with flood hazard area constraints, and adjacent to compatible land uses (see COAH Second Round rules, *N.J.A.C. 5:93-5.3*).

4. Minimum Rental Affordable Housing: COAH Second Round rules require municipal housing plans to provide for at least 25% of fair share obligations to be satisfied by rental affordable housing.

5. Housing Affordable to Very Low Income Households: Municipal housing plans must ensure that at least 13% of the low and moderate income housing units made available in a municipality are affordable to very low income households. COAH Third Round rules and court precedent require that at least half of those units must be available to very low income families (i.e. 6.5% of all low and moderate income units).

6. Incentives for Very Low Income Housing: Bonuses may be available for municipalities that exceed the 13% very low income minimums, including half for families, in 100% affordable housing, inclusionary developments, and market to affordable housing restricted to very low income households.

7. Inclusionary Developments: A minimum 20% set-aside is required, to the extent economically feasible, in new inclusionary developments within the jurisdiction of New Jersey's regional planning agencies: Meadowlands Commission, Pinelands Commission, Fort Monmouth Economic Revitalization Planning Authority, and Highlands Council. Throughout the state, municipalities must provide, through their zoning powers, incentives to ensure the economic feasibility of inclusionary development, including increased densities and reduced costs, and may in some cases include reduced set-asides. COAH rules also require presumptive minimum gross densities in built-up communities of six (6) units per acre with a 20% set-aside. For rental housing, COAH rules require a presumptive minimum gross density of ten (10) units per acre with a 15% set-aside.

8. Minimum Family Housing: COAH Third Round rules require municipal housing plans to provide that at least 50% of the housing addressing the fair share obligation is for families, without age restrictions.

9. Senior Cap: Municipalities may include age-restricted affordable housing in their housing plans, but only up to a cap of 25% of municipal fair share housing obligations.

10. Incentives for Rental Affordable Housing: COAH Second Round rules offer a bonus of one credit for every rental affordable unit available to the general public and one-third credit for age-restricted units. COAH Third Round rules offer this bonus only for rental affordable housing in excess of the minimum rental affordable housing requirement. Also, this bonus is not available retrospectively against Prior Round obligations if the housing was not built within a reasonable period.

11. Smart Growth Bonus: COAH Third Round Rules offer a bonus of one-third credit for each affordable housing unit built in a Transit Oriented Development that is either in Planning Area 1 (Metropolitan) or Planning Area 2 (Suburban) and in a “designated center” under the State Development and Redevelopment Plan.

12. Redevelopment Bonus: COAH Third Round Rules offer a bonus of one-third credit for each affordable housing unit built in a designated redevelopment area or rehabilitation area established under the Local Redevelopment and Housing Law.

13. Bonus Caps: COAH rules provide that a municipality may receive only one type of bonus for each affordable unit and cap bonuses at 25% of both the Prior Round and the Third Round obligation.

NONPROFIT MIXED HOUSING COLLABORATIONS

Project Name: Camp Kilmer Homes

Project Address: Truman Road, Edison

Developer: The project is being developed as part of a joint venture between the Edison Housing Authority, Fort Lee-based for-profit development company Albert Group, and Monarch Housing Associates, an affordable housing advocacy and development nonprofit based in Cranford. Triple C Housing will provide case management and support services for the homeless units.

Year Completed: 2015

Total Units: 120

Type & Tenure: Rental apartments

Affordable Housing Set-Aside: 30 units of supportive housing for the homeless individuals.

Funding Sources: The project also is being financed through a \$5 million New Jersey Housing and Mortgage Finance Agency construction loan, \$2.1 million NJHMFA permanent mortgage, \$3.5 million NJHMFA Community Development Block Grant multifamily restoration funding and \$8.8 million from the sale of low-income housing tax credits. Included in the funding is \$10 million from Community Development Block Grant Disaster Recovery funds through the Fund for Restoration of Multifamily Housing and the Superstorm Sandy Special Needs Housing Fund.

Description: The Kilmer Collaborative was established by the Middlesex County Continuum of Care, a organization comprised of social service agencies serving the homeless. Kilmer Homes addressed a condition of the former military base closure that 25% of affordable housing units be made available to the homeless.



WHAT IS AN ACCESSORY APARTMENT?

An Accessory Apartment is “a self-contained residential dwelling unit with a kitchen, sanitary facilities, sleeping quarters and a private entrance, which is created within an existing home, or through the conversion of an existing accessory structure on the same site, or by an addition to an existing home or accessory building, or by the construction of a new accessory structure on the same site.”

RESPONSIBILITIES OF OWNERS OF ACCESSORY APARTMENTS

When an owner is in the planning process for an affordable accessory apartment, s/he should contact the Municipal Housing Liaison who shall coordinate a meeting between the Administrative Agent and the owner.

The purpose of this initial meeting is to develop a clear division of labor between the parties and to transmit any components of the Operating Manual – including copies of all COAH-related local ordinances – that have already been adopted by the municipality.

The Administrative Agent will secure from the owner written acknowledgement that no restricted unit can be offered or in any other way committed to any person other than a household duly certified by the Administrative Agent.

Open and direct communication between the Owners of rental developments, the Municipal Housing Liaison and the Administrative Agent is essential to ongoing administration of affordability controls. Although the Administrative Agent is required to serve as the primary point of contact with households, the Owner must provide the Municipal Housing Liaison and Administrative Agent with information on vacancies. Owners of rental developments are also responsible for working with the Administrative Agent to ensure that the Municipal Housing Liaison has all necessary information to complete the annual COAH reporting.

CREATION OF AN ACCESSORY APARTMENT

Accessory apartments are allowed in *[Insert name of municipality]* in *[Insert specific zones where accessory apartments are permitted and whether the use is permitted or conditional]*. Homeowners interested in creating an accessory apartment on their property should contact the Municipal Housing Liaison *[Insert name and contact information for the MHL]*.

REQUIREMENTS FOR CREATING AN ACCESSORY APARTMENT

This section should be augmented by and tailored to local ordinances and construction requirements.

- Homeowners interested in creating an accessory apartment or making an existing accessory unit available for this program must read this manual and understand all of the requirements of owning and renting out an affordable housing unit.
- Property considered for an accessory unit must fall within the zone(s) where accessory units are permitted within [*Insert name of municipality*].
- Property must have sufficient sewer and water capacity to service the proposed accessory apartment. This must be documented and kept on file by the Administrative Agent.
- A deed restriction in the form of Appendix E in the Uniform Housing Affordability Controls (N.J.A.C. 5:80-26.1 et seq.) and appended to this manual stating the affordability controls will be **recorded** on the primary residence.
- Deed restrictions for accessory apartments in [*Insert name of municipality*] are for a period of no less than [10 or 30] years.
- The rent for the accessory apartment will be lower than market rate rents in the area to make it affordable for low- and/or moderate-income households. Households must be income-qualified by the Administrative Agent. Application for the apartment is open to the public, however the homeowner may establish reasonable criteria for the household selected to live in the unit.

COMPENSATION FOR THE CREATION OF AN ACCESSORY APARTMENT

- The municipality will provide \$[*Insert amount no less than \$20,000*] per unit to subsidize the creation of a moderate-income accessory apartment and \$[*Insert amount no less than \$25,000*] per unit to subsidize the creation of a low-income accessory apartment. [*If the municipality is creating only low-income units or only moderate-income units through this program, only include that level subsidy.*]
- [*If the municipality will be waiving municipal fees associated with construction permits, mention it here.*]

- *[If the municipality will expend additional funds in order to rehabilitate existing units and bring them up to code, explain the procedures here.]*

PROCESS FOR CREATING AN ACCESSORY APARTMENT

This section should give specific information for a prospective homeowner interested in creating an accessory apartment about what steps will be involved in building the unit. The following is a general list of possible steps. This should be edited and further detailed to fit the municipality's administration and construction process.

- Application for approval of accessory apartment construction
- Initial inspection by building inspector
- Approval of apartment design
- Contract agreement between municipality and owner
- Deed restriction recorded on residence
- Construction inspections
- Final inspection and issuance of Certificate of Occupancy
- Final payment
- Initial occupancy by qualified tenant